

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 1323 - HB 1976

March 31, 2011

SUMMARY OF BILL: Requires all skilled nursing facility liability actions to be brought solely and exclusively as a medical malpractice action, specifically including, but not limited to, the claimant's burden of proof. All injuries or occurrences that are or could have been asserted in a skilled nursing facility liability action shall constitute one action regardless of whether or not the action or actions are based on a single act or omission or a series of acts or omissions that allegedly caused the injury, injuries, death, or deaths. Specifies that there is no limit to the amount of economic damages that may be recovered, but limits non-economic damages recoverable in any action to \$250,000, adjusted for inflation as of January 1, 2014, and at three-year intervals thereafter. Authorizes punitive damages only if the claimant proves by clear and convincing evidence that the defendant's conduct demonstrated actual malice toward the claimant and limits the amount recoverable to \$500,000.

ESTIMATED FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- There will not be an impact on the oversight or regulatory functions of the Department of Commerce and Insurance or the Department of Health.
- Sufficient information is not available to determine whether changes in liability laws pertaining to skilled nursing facilities would impact reimbursement rates. Any financial impact, if realized, would not be reflected in actual expenditures until several years after implementation of the law. Any immediate fiscal impact to the Bureau of TennCare will be not significant.
- Limiting liability in this manner will have no significant impact on the case loads of trial and appellate courts.

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CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director

/kml